

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Calvary Baptist Church of Fort Dodge,
Petitioner-Appellant,

v.

Webster County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-94-0240
Parcel No. 0731126002

On June 6, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Calvary Baptist Church of Fort Dodge,¹ submitted evidence in support of its petition and was represented by its Board Chairman Blair J. Conley. The Board of Review designated Assistant County Attorney Cori Kuhn Coleman as its legal representative. Both parties submitted evidence in support of their position. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Calvary Baptist Church of Fort Dodge (Calvary) appeals from the Webster County Board of Review decision reassessing its property located at 407 Kenyon Road, Fort Dodge, Iowa. According to the property record card at the time of the protest, the subject property consists of two buildings. The first building is a 5677 square-foot retail store built in 1975 and the second is a 3096 square-foot greenhouse built in 1975. The 1.55 acre parcel is also improved by 6100 square feet of asphalt paving.

The real estate was classified as commercial for the assessment of January 1, 2010, and valued at \$120,650, representing \$44,360 in land value and \$76,290 in improvement value.

¹ The church name changed to Kenyon Road Baptist Church in January 2010, according to Blair Conley.

Calvary protested to the Board of Review on the grounds that the property is not assessable, is exempt from taxes, or is misclassified under Iowa Code section 441.37(1)(c). After the Board of Review's on-site visit to the subject property, it deleted two buildings from the property record card that had been demolished and removed from the parcel. The Board of Review granted Calvary's petition, in part, by applying approximately a 25% exemption to the property. The adjusted value after the partial exemption was \$87,930, allocated \$33,270 to land value and \$54,660 to improvement value.

Calvary then appealed to this Board and reasserted its claim.

Blair Conley, Chairman of the church board, testified on behalf of Calvary. He testified the building was purchased in 2002 and planning for construction began in 2003 or 2004. Conley reported the building is not up to code and it still can not be used for worship services. The congregation consists of thirty-nine members of which less than ten are active members. Conley serves on the three-member church board with his spouse and one other parishioner. The Board uses the property at least once a year for its annual meeting, which lasts for one to two hours. Conley recalls between one and three board meetings were held in 2009. Youth gatherings occasionally occur at the property to play ping-pong or use the batting cage, but do not meet on a regular or scheduled basis. Conley reports the property is used for a total of about five to six hours a week, mostly for mowing in the summer and maintenance work.

According to Conley, the congregation has no pastor and no employees. The church treasurer and her assistant work from home and do not maintain offices at the facility. The building is not up to code, construction work was suspended years ago, and no building permit has been obtained. No church services have ever been held at the facility. No preaching has occurred on the premises.

Portions of the building are used as a church library, a meeting area, a shop, a reception area, and office areas. Other parts of the building are used for church storage. Conley also conceded the

storage areas include his personal, business, and family items. He has an agreement with the church that allows him to use the storage areas without charge, in lieu of salary.

Assessor Jeannette Thanupakorn testified on behalf of the Board of Review. She reported the two older greenhouses, which were initially listed on the property record card, were removed. Thanupakorn confirmed with the city that the buildings do not meet code for any assembly, permission was not given for use as a youth center, and no building permit has been obtained. She said the Board of Review applied approximately a 25% exemption to the building and land based on their site visit observations. Thanupakorn applied an additional -25% adjustment to the paving to provide for the exemption. She subtracted the number of exempt square feet from the actual square feet of the buildings to reduce the value in her cost report, as shown in the chart below:

	Total Square Feet	Exempt Square Feet	Non-exempt Square Feet
Building 1	5677 ²	-2383	3294 ³
Building 2	3096	0	3096
Totals	8773	-2383	6390
Percentage	100%	27%	73%

Jim Kesterson, Chair of the Board of Review, testified its minutes accurately reflect its decision to grant Calvary a partial exemption. He said the Board of Review considered evidence of Calvary being part of the Baptist Church and that no details of use were provided except use of the batting cage by Conley's son. Kesterson testified the property had been exempt from 2003 until 2007, when the exemption was removed. He personally observed a pattern of limited snow plowing in winter, no obvious preparation for religious services, and no vehicles in the parking lot. Kesterson is an appraiser and real estate broker, and we found him knowledgeable and credible.

Since the Board of Review determined Calvary should be granted a partial exemption, we accept its finding that Calvary qualifies as an exempt organization, and will consider only the amount

² This is the square footage listed for Building 1 on Calvary's property record card before the Board of Review protest.

³ This is the square footage listed for Building 1 on Calvary's property record card after the Board of Review decision.

of the exemption. There was no evidence that Calvary is used for pecuniary profit. Kesterson testified the Board of Review measured the portions of the property that it determined were used for a religious purpose and estimated the square feet of those areas to arrive at the partial exemption. Essentially, the Board of Review said “25% Exempt” and the assessor applied that amount to come up with the square footage. We find this procedure reasonable and the Board of Review more than generous in determining the size of the exempt portion because of the limited religious activities actually taking place in a small portion of the property.

Reviewing all the record as a whole, we find that the preponderance of the evidence did not prove that the subject property should be granted a total exemption as of January 1, 2010.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property’s fair and reasonable market value. *Id.* “Market value” essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or

comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, “other factors” may be considered in arriving at market value. § 441.21(2). The assessed value of the property “shall be one hundred percent of its actual value.” § 441.21(1)(a).

Calvary’s request for an exemption from property taxation is based on Iowa Code section 427.1(8):

The following classes of property shall not be taxed:

8. Property of religious, literary and charitable societies. All grounds and buildings used or under construction by literary, scientific, charitable, benevolent, agricultural, and religious institutions and societies solely for their appropriate objects, not exceeding three hundred twenty acres in extent and not leased or otherwise used or under construction with a view to pecuniary profit.

Authority for a partial tax exemption is found in section 427.1(14):

The assessor, in arriving at the valuation of any property of the society or organization, shall take into consideration any uses of the property not for the appropriate objects of the organization and shall assess in the same manner as other property, all or any portion of the property involved which is leased or rented and is used regularly for commercial purposes for a profit to a party or individual. If a portion of the property is used regularly for commercial purposes an exemption shall not be allowed upon property so used and the exemption granted shall be in the proportion of the value of the property used solely for the appropriate objects of the organization, to the entire value of the property.

§ 427.1(14). Section 427.1(14) is strictly construed by the Court and any doubt about an exemption is resolved in favor of taxation. *Carroll Area Child Care Center, Inc. v. Carroll County Bd. of Review*, 613 N.W.2d 252, 254 (Iowa 2000); *Care Initiatives v. Bd. of Review of Union County*, 500 N.W.2d 14, 16-17 (Iowa 1993).

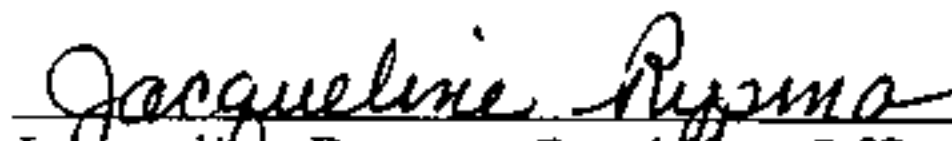
The Court recognizes three requirements for exemption: (1) property must be used by a charitable, religious, or educational institution or society; (2) property must not be used with view to pecuniary profit; and (3) the actual use of the property must be solely for the appropriate objects of the institution or society. *Camp Foster YMCA v. Dickinson County Bd. of Review*, 503 N.W.2d 409, 411 (Iowa 1993) (citing *Congregation B’Nai Jeshurun v. Bd. of Review*, 301 N.W.2d 755, 756 (Iowa 1981)).

Regarding the first factor, because the Board of Review granted a partial exemption to Calvary, it necessarily found Calvary was a religious institution at the time it claimed exempt status and eliminates the need for this Board to determine whether Calvary qualified as a religious organization. *Carroll Area Child Care Center*, 613 N.W.2d at 255; *Aerie 1287, Fraternal Order of Eagles v. Holland*, 226 N.W.2d 22, 25 (Iowa 1975). With respect to the second factor, there was no evidence in the record that the property was used for pecuniary profit. With respect to the third factor, the Board of Review granted a partial exemption based on the portion of the property it determined was used solely for religious purposes. If some portion of a property is not used solely for the appropriate object of the institution or society, the exemption is reduced proportionally. *American Legion, Hanford Post 5 v. Cedar Rapids Bd. of Review*, 646 N.W.2d 433, 435 (Iowa 2002); Iowa Code §427.1(14). We find the Board of Review's method and decision granting the partial exemption was fair and reasonable.

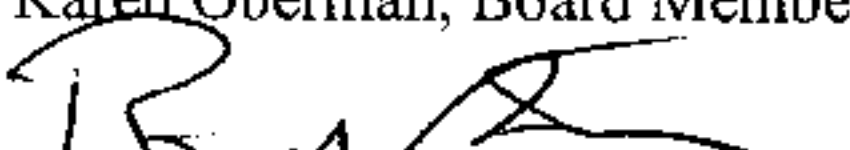
Therefore, we affirm the Calvary property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2010, is \$87,930, allocated \$33,270 to land value and \$54,660 in improvement value, which reflects the buildings removed by the Board of Review and the 25% exemption it applied to the property.

THE APPEAL BOARD ORDERS that the January 1, 2010, assessment as determined by the Webster County Board of Review is affirmed.

Dated this 20 day of July 2011.


Jacqueline Rypma, Presiding Officer


Karen Oberman, Board Member


Richard Stradley, Board Chair

Copies to:
Blair Conley
Calvary Baptist Church
1100 Colonial Drive
Fort Dodge, IA 50501
LEGAL REPRESENTATIVE FOR APPELLANT

Cori Kuhn-Coleman
Webster County Attorney
702 1st Avenue S
Fort Dodge, IA 50501
ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>7-20</u> , 201 <u>1</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>Blair Conley</i></u>